

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

CR-2468-2018 (O&M)
Date of decision: 26.04.2024

RAM KUMAR AND ANR.

..Petitioners

Versus

BALLU (DECEASED) THROUGH LRS AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rakesh Gupta, Advocate
Mr. Karan Gupta, Advocate
Ms. Simranjeet Kaur Ahluwalia, Advocate
Ms. Roopkiran Kaur, Advocate
and Ms. Ankita Nihaniwal, Advocate
for the petitioners.

Mr. Sunil Saharan, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the petitioners assail the correctness of trial Court's order dated 27.02.2018 while allowing application under Section 152 and 153 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC').
2. The petitioners herein are defendant No.2 and 3 in Civil Suit No.750 of 1985 (Ballu etc. Vs. Jai Narain etc.)
3. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.
4. Sh. Ballu, Sh. Dhonkal and Sh. Bhagat Ram sons of Sh. Sohan Lal and Sh. Dharam Pal son of Sh. Sheo Chand @ Devi Chand son of Sh.

Sohan Lal filed a suit for declaration against Sh. Sohan Lal on 05.04.1972, with respect to the following parcels of land:-

- i. Half share of land measuring 487 kanal and 11 marlas located in village Talwandi Badshahpur.
- ii. 8/39th share out of land measuring 807 kanal and 4 marlas situated in village Dhulkot.
- iii. Half share of land measuring 104 kanal and 3 marlas situated in village Talwandi Badshahpur.

5. Sh. Sohan Lal conceded to the plaintiffs claim, which was decreed on 12.04.1972. Subsequently, Sh. Ballu etc., the same plaintiffs who had filed the previous suit filed a fresh suit for the grant of decree of declaration that they are claiming to be owner of 596 kanal and 7 marlas land comprised in Khewat No.114 and 115 as per jamabandi for the 1970-1971, to the extent of half share of the land measuring 220 kanal and 7 marlas comprised in Khewat No.1 located in village Dhulkot as per jamabandi for the year 1976-1977 by virtue of decree dated 12.04.1972. This suit was decreed on 14.02.1992. The appeal against the aforesaid decree was dismissed on 25.01.1995. An application was filed by the plaintiffs on 06.09.2014 under Section 152 and 153 of the CPC for correcting typographical mistake on the ground that the total area of Khewat No.114 and 115 was in fact 798 kanal and 11 marlas and not 596 kanal and 7 marlas. The aforesaid application has been allowed.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

7. The learned counsel representing the petitioners submits that if we peruse the decree passed on 12.04.1972, which was the sole basis of the subsequent suit filed by the plaintiffs, the plaintiffs were declared owner of land measuring half share of the following land in village Talwandi Badshahpur:-

“Half share of land measuring 487 kanal and 11 marlas, which is equivalent to 243 kanal and 15 & ½ (half) marla and half share of land measuring 104 kanal and 3 marlas, which is equivalent to 52 kanal and 1 & ½ (half) marla.”

8. He submits that there is no explanation from where the figure of 798 kanal and 11 marlas has come. He submits that there was another lady namely Smt. Sukhi, daughter of Sh. Sohan Lal was owner of property in the same khewat and the trial Court has not adverted to that effect while allowing the application.

9. On the other hand, the learned counsel representing the respondents submits that in the plaint, there was an error as the total suit land i.e. 596 kanal and 7 marlas + 202 kanal and 4 marlas shall comprised in Khewat No.114 and 115 as per the jamabandi and therefore, there was an error.

10. This Court has considered the submissions of the learned counsel representing the parties.

11. The scope of application under Section 152 and 153 of the CPC is only to correct typographical errors arising out of printing omissions or clerical error.

12. Section 152 of the CPC enable the Court to pass order while permitting the parties to generally amend their pleadings, whereas, Section 153 provide general power to amend any defect or error in proceedings in a suit. However, in this case, there is lack of clarity in the impugned order as to from where this figure of 202 kanal and 4 marlas has come, particularly when the plaintiffs previous suit was with respect to half share of land measuring 487 kanal and 11 marlas, which is equivalent to 243 kanal and 15 & ½ (half) marla and half share of land measuring 104 kanal and 3 marlas, which is equivalent to 52 kanal and 1 & ½ (half) marla.

13. Keeping in view the aforesaid facts, the revision petition is allowed. The impugned order is set aside while requesting the trial Court to pass fresh order while taking into account all the documents, which have been placed on file.

14. The parties through their counsel are directed to appear before the trial Court on 27.05.2024.

15. All the pending miscellaneous applications, if any, are also disposed of.

April 26th, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No